

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

KIM C. CLARK,

Plaintiff,

v.

BACON, et al.,

Defendant.

CASE NO. C23-0927 BHS

ORDER

THIS MATTER is before the Court on Magistrate Judge Grady J. Leupold's Report and Recommendation (R&R), Dkt. 24, recommending the Court grant the defendants' summary judgment motion, Dkt. 20, and dismiss this case without prejudice.

Defendants' summary judgment motion contends, and the R&R concludes, that pro se prisoner plaintiff Kim Clark has not exhausted her administrative remedies under the Prison Litigation Reform Act (PLRA). Dkt. 24 at 7–9.

A district judge must determine de novo any part of a magistrate judge's proposed disposition to which a party has properly objected. It must modify or set aside any portion of the order that is clearly erroneous or contrary to law. Fed. R. Civ. P. 72(a). The district judge may accept, reject, or modify the recommended disposition; receive further

1 evidence; or return the matter to the magistrate judge with instructions. Fed. R. Civ. P.
2 72(b)(3).

3 A proper objection requires “specific written objections to the proposed findings
4 and recommendations” in the R&R. Fed. R. Civ. P. 72(b)(2). In providing for a de novo
5 determination, Congress “intended to permit whatever reliance a district judge, in the
6 exercise of sound judicial discretion, chose to place on a magistrate’s proposed findings
7 and recommendations.” *United States v. Raddatz*, 447 U.S. 667, 676 (1980) (internal
8 quotation marks omitted).

9 Clark did not respond to the summary judgment motion, and she has not objected
10 to the R&R. Nor has she exhausted her administrative remedies. *See Carrea v.*
11 *California*, 551 F. App’x 368, 369 (9th Cir. 2014) (the proper remedy for failure to
12 exhaust is dismissal without prejudice).

13 The R&R is **ADOPTED**, defendants’ summary judgment motion is **GRANTED**
14 and this case is **DISMISSED** without prejudice.

15 **IT IS SO ORDERED.**

16 Dated this 13th day of June, 2024.

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19 BENJAMIN H. SETTLE
20 United States District Judge
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